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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **Western Division**

12
13 IN THE MATTER OF
14 ADMINISTRATIVE SUBPOENAS
15 ISSUED BY THE SECURITIES AND
16 EXCHANGE COMMISSION TO
17 BANK OF AMERICA, BANK OF
18 THE WEST, CAPITAL ONE CREDIT
19 CARDS, CATHAY BANK, CHASE
20 CARD SERVICES, CITIBANK,
21 EAST WEST BANK, FIRST
22 BANKCARD, FIRST NATIONAL
23 BANK OF SOUTHERN
24 CALIFORNIA, FIA CARD
25 SERVICES, J.P. MORGAN CHASE
26 BANK, AND ROYAL BUSINESS
27 BANK
28

Case No. LA MC 17-78 FMO(SKx)

***IN CAMERA APPLICATION FOR AN
EX PARTE ORDER SEALING
RECORDS PURSUANT TO SECTION
21(h)(5) OF THE SECURITIES
EXCHANGE ACT OF 1934, 15 U.S.C.
§ 78u(h)(5); MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF***

FILED UNDER SEAL

IN CAMERA APPLICATION FOR *EX PARTE* ORDER

Pursuant to Section 21(h)(5) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78u(h)(5)], the Securities and Exchange Commission (“SEC”) hereby applies, *ex parte* and without notice, for an order sealing all records related to this matter for 90 days, including this Application and all papers filed today by the SEC in support of its separately filed *In Camera* Application for an *Ex Parte* Order Delaying Notice of Subpoenas Pursuant to Section 21(h)(4) of the Securities Exchange Act of 1934 (the “Application for Order Delaying Notice of Subpoenas”). Section 21(h)(5) expressly provides that “all proceedings” pursuant to Sections 21(h)(2) and (4) “*shall* be held in camera and the records thereof sealed until expiration of the period or delay or such other date as the presiding judge or magistrate may permit.” 15 U.S.C. § 78u(h)(5) (emphasis added).

The SEC requests that the following records be filed (or, in the case of the proposed orders, lodged) under seal:

- (1) this application and the attached memorandum of points and authorities;
- (2) the SEC’s Application for Order Delaying Notice of Subpoenas; and
Memorandum of Points and Authorities and Declaration of Junling Ma
in Support Thereof;
- (3) the proposed orders submitted by the SEC; and
- (4) any orders issued by the Court.

Dated: August 24, 2017

/s/ Kristin Escalante
KRISTIN S. ESCALANTE
Attorney for Applicant
Securities and Exchange Commission

MEMORANDUM OF POINTS AND AUTHORITIES

The SEC seeks to file under seal an *in camera* application for an *ex parte* order under section 21(h)(4) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78u(h)(4)]. As explained in detail in that application, the Right to Financial Privacy Act of 1978 (“RFPA”) provides that when a governmental entity seeks to obtain the financial records of an individual from a financial institution, notice to the individual ordinarily must be given before the records may be produced. Section 21(h) of the Exchange Act provides an exception to the notice requirements for certain subpoenas issued in SEC investigations, and provides that the SEC may seek an order from the District Court delaying notice of the subpoenas for up to 90 days, and to seek subsequent 90-day extensions where needed.

Section 21(h)(5) provides that “all proceedings” for an order delaying notice pursuant to Sections 21(h)(2) and (4) “*shall* be held in camera and the records thereof sealed until expiration of the period or delay or such other date as the presiding judge or magistrate may permit.” 15 U.S.C. § 78u(h)(5) (emphasis added). The SEC’s Application for an Order Delaying Notice is a proceeding pursuant to Section 21(h)(4) and therefore falls squarely within that provision. The SEC thus respectfully requests that the Court order the records be sealed for the 90 day “period of delay” sought by the SEC (and for the period of any additional extension that may later be granted under Section 21(4)(B)).

An order sealing records of this matter until the expiration of the period for delay, including any extensions, is necessary to preserve the confidentiality of the subpoenas and the investigation. As explained in detail in the SEC’s Application for Delayed Notice, premature disclosure of the SEC’s investigation could induce the individuals under investigation to flee from prosecution, to transfer assets or records outside the territorial limits of the United States, and to otherwise impede the SEC’s investigation. *See* Declaration of Junling Ma, filed in support of the SEC’s

1 Application for Delayed Notice.

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3 Dated: August 24, 2017

4 /s/ Kristin S. Escalante

5 KRISTIN S. ESCALANTE

6 Attorney for Plaintiff

7 Securities and Exchange Commission